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**OCT 06 2010**

**OFFICE OF PETITIONS**

KRAMER & AMADO, P.C.  
1725 Duke Street, Suite 240  
Alexandria VA 22314

In re Patent No. 7,590,072 : DECISION ON REQUEST FOR  
Radi et al. : RECONSIDERATION OF  
Issue Date: September 15, 2009: PATENT TERM ADJUSTMENT AND  
Application No. 10/798,412 : NOTICE OF INTENT TO ISSUE  
Filed: March 12, 2004 : CERTIFICATE OF CORRECTION  
Attorney Docket No. ALC 3120 :

This is in response to the Reply To Decision Dismissing  
Request for Recalculation of PTA in View of Wyeth, filed May 20,  
2010, which is being treated as a petition under 37 CFR  
1.705(d).

The petition to correct the patent term adjustment indicated on  
the above-identified patent is **GRANTED to the extent indicated  
herein**. The term of the above-identified patent is extended or  
adjusted by **one thousand one hundred forty-six (1146) days**.

After further review, the Office concludes that the A Delay is  
812 days and applicant delay is 5 days. As the period from the  
filing date of the request for continued examination (RCE) to  
the issue date of the patent is not included in the B delay  
period, the over three year period begins on March 13, 2007, and  
ends on July 6, 2008, the day before the RCE was filed, and is  
482 days. See 35 U.S.C. 154(b)(1)(B)(i). However, the A Delay  
and B Delay overlap by 143 days, beginning on March 13, 2007 and  
ending on August 2, 2007. See 35 USC 154(b)(2)(A).

Accordingly, the patent term adjustment is 1146 days (812 days  
of A delay + 482 days of B delay - 143 days of overlap - 5  
applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred forty-six (1146) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

*C. T. Donnell*

Christina Tartera Donnell  
Senior Petitions Attorney  
Office of Petitions

Enclosure:    Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT: 7,590,072 B2

DATED: Sep. 15, 2009 **DRAFT**

INVENTOR(S): Radi et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 807 days

Delete the phrase "by 807 days" and insert -- by 1146 days--